

IN THE UNITED STATES DISTRICT COURT OF WESTERN
MICHIGAN DISTRICT OF MICHIGAN

FILED - GR

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CLERK OF COURT

U.S. DISTRICT COURT

WESTERN DISTRICT OF MICHIGAN

BY:JJM SCANNED BY: JH /S-27

1:22-cv-467

Troyron Gladney

Janet T. Neff
U.S. District Judge

Plaintiff-Intervenor

v.

Jeffrey Gettings

[PROPOSED] COMPLAINT IN INTERVENTION FOR VIOLATIONS OF:

- (1) TITLE II OF THE CIVIL RIGHTS ACT OF 1964;**
- (2) 42 U.S.C. § 1981;**
- (3) MICHIGAN DISABILITY ACT AND Elliot Larson law;**
- (4) STATE TORT LAW;**
- (5) Michigan Civil Rights**

JURY TRIAL DEMANDED

INTRODUCTION

2 1. This is an action for relief from violations by Defendants Jeffrey Gettings, Allen
3 Harbaug, Micheál Stein and Justin Workman.
4 (“Kalamazoo Office of Prosecuting Attorney”), and Does 1-50 (collectively, “Defendants”), of
5 the right of Plaintiff-Intervener Troyron Gladney (“Plaintiff-Intervener”) to be free from unlawful
6 program discrimination on the basis of his national origin and race, Afro American.

7 2. Defendants, as Plaintiff-Intervenors former state prosecutor, subjected Plaintiff
8 Intervenor to the 'egregious and unlawful 'program practice of excluding me~, as a condition of
9 his
0 wanting, to participate in and enforce a company policy and/or practice of refusing services
1 to potential customers who were perceived to be of Black or Afro American origin or race
2 ("Policy").

3 3. Defendants' discriminatory actions against those customers permeated all of
4 Plaintiff-Intervenor's work. On a regular basis, I was refuse services, or instruct others to do so
5 pursuant to Defendants' personal feelings not policy. As a person of African descent, this caused
6 Plaintiff Intervener significant distress, anxiety, and shame.

7 4. Plaintiff-Intervenor witnessed Defendants employees of all ranks, including the
8 Chief Prosecutor Jeffrey Gettings, openly engage in and/or openly allow this personal feeling to
9 thrive. The discrimination continued even after Plaintiff-Intervenor expressed his opposition to it.

20 5. The consequent hostile program environment, discriminatory treatment, and
21 retaliation at the hands of Defendants forced Plaintiff-Intervenor to relocate from his state of

JURISDICTION AND VENUE

25 6. This Court has jurisdiction over the subject matter and parties pursuant to 28 U.S.C.
26 § 1331, as this case involves questions of federal law. This Court also has jurisdiction pursuant to
27 28 U.S.C. § 1333 because Plaintiff-Intervenor seeks damages for violation of his civil rights.

This Court has supplemental jurisdiction over the related state law claims pursuant to 28 U.S.C. § 1337(a) because those claims form part of the same case or controversy under

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29 Article III of the United States Constitution. Plaintiff-Intervenor's state law claims share all
30 common operative facts with his federal law claims, and the parties are identical. Resolving
31 Plaintiff-Intervenor's federal claims in a single action serves the interests of judicial economy,
32 convenience, consistency, and fairness to the parties.

33 8. Venue is proper in, and Defendants are subject to the personal jurisdiction of, this
34 Court because Defendants maintain facilities and business operations in this District, and all or
**
35 most of the events giving rise to this action occurred in this District. 28 U.S.C. § 1391(b); 42
36 U.S.C. §2000e-5(f)(3).

37 9. Pursuant to Local Rule 3-2(d) of this District, assignment to the Western Division
38 of
39 this Court is proper because all or most of the events giving rise to Plaintiff-Intervenor's claims
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NATURE OF THIS ACTION

10. This is an action brought pursuant to Article II and Art V. Section 29; 1976 Pa 220

11. and Pa 453 and Rules Governing Organization and Procedures of the MCRC).

U.S.C. § 2000e et seq., as amended and Michigan statutory and common law.

46 12. Plaintiff-Intervenor seeks injunctive and declaratory relief, compensatory damages,
47 punitive damages, and penalties, and his reasonable attorneys' fees and litigation expenses as
48 remedies for Defendants' violations of his Federal and Michigan statutory as well as common law
rights.

50 13. Through this Complaint, Plaintiff-Intervenor intervenes as of right in the action
51 commenced in this Court on March 4, 2022 against Defendant by Troyron Gladney v.
52 *Gettings, et al.*, Case No. 22-1151, 42 U.S.C. § 2000e-5(f)(1).

PARTIES

55 13. Plaintiff-Intervener Troyron Gladney is a man of African descent. He lived as a citizen of Kalamazoo Michigan from approximately July 12,

1991 until on or around August 11,2019. Thereafter, Plaintiff-Intervenor moved on Aug 11 2019
out of state Indiana.

64 14. Upon information and belief, Defendant Kalamazoo Prosecuting is a Michigan
65 Government entity with its principal place of business in Kalamazoo, Michigan.

66 15. Plaintiff-Intervenor is informed and believes, and thereon alleges, that Defendant
67 Gettings at all times relevant herein was engaged in the business of answering civil rights
68 violation complaints and alleged civil rights violations in his office.

69 16. At all times relevant herein, Defendant Gettings had at least fifteen employees. It is
70 therefore an “employer” within the meaning of Title VII.

71 17. Defendant Gettings is also an “employer” within the meaning of the Michigan Civil
72 Rights Act and Fair Employment Act (“EEOC”).

73 18. Plaintiff-Intervenor is informed and believes, and thereon alleges, that at all times
74 relevant herein each of the Defendant Does 1-50 were responsible in some manner for the
75 occurrences and injuries alleged in this complaint. Their names and capacities are currently
76 known to Plaintiff-Intervenor. Plaintiff-Intervenor will amend this Complaint to show such true
77 capacities when the same have been ascertained.
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79 **STATEMENT OF FACTS**
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81 19. At all times material to this action, Plaintiff-Intervenor was a resident of Kalamazoo
Michigan. Also, a person with a mental disability also receiving SSI.

82 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**
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20. Plaintiff-Intervenor timely filed charges with the United States Northern District
Court, which were cross-filed with the United States Western District Federal Court House.

84 Intervenor's charge of discrimination, there wasn't an investigation due to no due process on the
 85 Defendants part and prior to the EEOC's issuance of a Notice of Right to
 86 Sue, Plaintiff-Intervenor necessarily initiated an action in the United States Northern Court of
 87 Indiana County of ST. Joseph, in order to preserve her California statutory and common law
 88 claims. That action is styled *Troyron Gladney v. Gettings et al, Inc., et al*, No. 1:21 -cv-
 89 00064(filed Jan. 20, 2021). That action was dismissed with prejudice by Michigan Western
 90 District Court immediately upon this
 91 Court's exercise of supplemental jurisdiction over the state law claims contained herein.

92 22. Plaintiff-Intervenor has timely filed this action and has complied with all
 93 administrative prerequisites to bring this lawsuit.

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FIRST CLAIM FOR RELIEF

95 **[Hostile Program Environment Based on National Origin in Violation of Title II of the Civil
 96 Rights Act of 1964, as amended, 42 U.S.C. § 2000e-2(a)]**

97 54. Plaintiff-Intervener incorporates by reference the allegations contained in
 98 Paragraphs 1 through 53, above, as if fully set forth herein.
 99
 100 55. Title II of the Civil Rights Act of 1964, as amended, makes it unlawful for an entity
 101 (l) to fail or refuse to investigate or to discharge any individual complaints, or otherwise to
 102 discriminate
 103 against any individual with respect to his compensation, terms, conditions, or privileges of
 104 complaining, because of such individuals race, color, religion, sex, or national origin; or (2) to
 105 limit, segregate, or classify his or applicants for programs in any way which would
 106 deprive or tend to deprive any individual of complaint opportunities or otherwise adversely
 107 affect his status as an employee, because of such individual's race, color, religion, sex, or national
 108 origin." 42 U.S.C. § 2000e-2(a).

109 56. Defendants subjected Plaintiff-Intervenor to unwelcome conduct by ignoring him,
 110 as a term and condition of his complaint, and failed to enforce their Policy or refuse services to

57. This conduct was severe and pervasive. On a regular, and sometimes daily, basis, ff-Intervener witnessed State Prosecutors openly abide by their personal feelings not

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115 Hand-written notes indicating that Defendants would not provide services to
116 Plaintiff and enforce the Policy.

117 58. Plaintiff-Intervenor's multiple Complaints to Defendants' supervisory employees
118 did not cause Defendants to rescind their personal feelings.

119 59. The Defendants⁵ actions in relation thereto created a hostile program environment
120 for Plaintiff-Intervenor because of her national origin, Afro American.

121 60. Plaintiff-Intervener found his program environment to be hostile and heavily
122 charged with national origin discrimination.

123 61. A reasonable person of Afro American national origin in Plaintiff-Intervenor's
124 position would have found the program environment to be hostile and polluted by national origin
125 discrimination.
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127 62. Management level employees knew, or should have known, of the Policy and
128 Defendants employees' conduct in relation thereto.

129 63. Defendants did not exercise reasonable care to prevent the creation of a hostile
130 program environment charged with national origin discrimination, and did not exercise reasonable
131 care to rescind their personal feelings not Policy, even after Plaintiff-Intervenor's repeated
132 opposition to it.

133 64. As a direct, legal and proximate result of this discrimination, Plaintiff-Intervenor
134 has sustained emotional injuries, resulting in damages in an amount to be proven at trial.

135 65. Defendants' unlawful actions were intentional, willful, malicious, and/or done
136 with
137 reckless disregard to Plaintiff-Intervenor's right to be free from discrimination based on national
origin.

66. Plaintiff-Intervenor is entitled to her reasonable attorneys' fees and costs of suit.

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SECOND CLAIM FOR RELIEF

140 [National Origin Discrimination (Disparate Treatment) in Violation of Title II of the Civil
141 Rights Act of 1964, as amended, 42 U.S.C. § 2000e-2(a)]

142 67. Plaintiff-Intervenor incorporates by reference as if fully set forth herein the
143 allegations contained in paragraphs 1 - 66, above.

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145 68. Defendants discriminated against Plaintiff-Intervener by ignoring him on the basis
146 of his national origin, Afro American.

147 69. Plaintiff-Intervenor's national origin was the determining factor and/or a motivating
148 factor in Defendants' adverse action.

149 70. As a direct, legal and proximate result of the discrimination, Plaintiff-Intervener has
150 sustained emotional injuries, resulting in damages in an amount to be proven at trial.

151 71. Defendants' unlawful actions were intentional, willful, malicious, and/or done with
152 reckless disregard to Plaintiff-Intervenor's right to be free from discrimination based on national
153 origin.

154 72. Plaintiff-Intervenor is entitled to her reasonable attorneys' fees and costs of suit.

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THIRD CLAIM FOR RELIEF

160 73. Plaintiff-Intervenor incorporates by reference as if fully set forth herein the
161 allegations contained in paragraphs 1 - 72, above.

162 74. Article II of the Civil Rights Act of 1964, as amended, prohibits entities from
163 discriminating against a citizen “because [he] has opposed any practice made an unlawful
164 program practice by this subchapter.” 42 U.S.C. § 2000e-3(a).

165 75. Plaintiff-Intervenor engaged in protected activity by making numerous complaints
166 to Defendants' agents and employees about Defendants' program practice that required Plaintiff-
167 Intervenor, as a term and condition of his complaints, to enforce and engage in the Policy of
168 refusing services to customers based on their perceived national origin, Afro American or Black.

169 76. Plaintiff-Intervenor reasonably believed that this term and condition of his
170 complaints was unlawful.

171 77. As a result of Plaintiff-Intervenor's complaints, Defendants, their agents and/or
172 employees took materially adverse actions against Plaintiff-Intervenor, including, but not limited

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174 to, ignoring me in front of supervisor peers and constructively discharging my complaints.

175 78. Defendants', their agents' and/or employees' retaliatory actions would deter a
176 reasonable complaintants from engaging in protected activity under ARTICLE II.

177 79. As a direct, legal and proximate result of the discrimination, Plaintiff-Intervenor has
178 sustained economic and emotional injuries, resulting in damages in an amount to be proven at
179 trial.

180 80. Defendants' unlawful actions were intentional, willful, malicious, and/or done with
181 reckless disregard to Plaintiff-Intervenor's right to be free from retaliation.

182 81. Plaintiff-Intervenor is entitled to her reasonable attorneys' fees and costs of suit.
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184 **FOURTH CLAIM FOR RELIEF**

185 [Constructive ignoring in Violation of Title II of the Civil Rights Act of 1964, as
186 amended, 42 U.S.C. § 2000e-2(a)]

188 82. Plaintiff-Intervenor incorporates by reference as if fully set forth herein the
189 allegations contained in paragraphs 1 through 81, above.

190 83. Defendants, and their agents and employees, created discriminatory and intolerable
191 program conditions for Plaintiff-Intervener.

84. A reasonable person in Plaintiff-Intervenor's position would have felt compelled to rebut under these conditions.

85. Plaintiff-Intervenor did in fact moved from his State of residency because of these conditions.

86. As a direct, legal and proximate result of the discrimination, Plaintiff-Intervenor has sustained economic and emotional injuries, resulting in damages in an amount to be proven at trial.

87. Defendants' unlawful actions were intentional, willful, malicious, and/or done with reckless disregard to Plaintiff-Intervenor's right to be free from discrimination based on national origin.

88. Plaintiff-Intervenor is entitled to her reasonable attorneys' fees and costs of suit.

FIFTH CLAIM FOR RELIEF

[Race Discrimination (Disparate Treatment) in Violation of 42 U.S.C. § 1981]

104. Plaintiff-Intervenor incorporates by reference as if fully set forth herein the allegations contained in paragraphs 1-103, above.

105. Defendants discriminated against Plaintiff-Intervenor by demoting her on the basis of her race, Middle Eastern.

106. Plaintiff-Intervenor's race was the determining factor and/or a motivating factor in Defendants' adverse action.

107. As a direct, legal and proximate result of the discrimination, Plaintiff-Intervenor has sustained economic and emotional injuries, resulting in damages in an amount to be proven at trial.

108. Defendants' unlawful actions were intentional, willful, malicious, and/or done with reckless disregard to Plaintiff-Intervenor's right to be free from discrimination based on race.

109. Plaintiff-Intervenor is entitled to her reasonable attorneys' fees and costs of suit.

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SIXTH CLAIM FOR RELIEF

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**National Origin Discrimination (Disparate Treatment) in Violation of the FEHA,
MI. Gov't Code § 12940(a)**

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139. Plaintiff-Intervenor incorporates by reference as if fully set forth herein the allegations contained in paragraphs 1 - 138, above.

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140. The American with disability Act makes it unlawful "[for an entity, because of the .

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national origin ... of any person, to refused services or the person or to refuse to select the person for a Civil Rights program leading to a conviction, or to bar or to discharge the person from a Government program leading to an arrest, or to discriminate against the person in compensation or in terms, conditions, or privileges of prevailing."

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141. Defendants discriminated against Plaintiff-Intervenor by ignoring him on the basis of his national origin, Afro American.

142. Plaintiff-Intervenor's national origin was the determining factor and/or a motivating factor in Defendants' adverse action.

143. As a direct, legal and proximate result of the discrimination, Plaintiff-Intervenor has sustained economic and emotional injuries, resulting in damages in an amount to be proven at trial.

144. Defendants' unlawful actions were intentional, willful, malicious, and/or done with reckless disregard to Plaintiff-Intervenor's right to be free from discrimination based on national origin.

145. Plaintiff-Intervenor is entitled to reasonable attorneys' fees and costs of suit.

SEVENTH CLAIM FOR RELIEF**[Failure to Prevent Discrimination and in Violation of the FEHA, MI. Gov't Code.**

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154. Plaintiff-Intervenor incorporates by reference as if fully set forth herein the
allegations contained in paragraphs 1-153, above.

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155. Under the Elliot Larson law, it is unlawful *[f]or an entity ... to fail to take all
reasonable steps necessary to prevent discrimination and harassment from occurring." MI. Gov't.

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156. Defendants, their agents, and/or employees failed to take all reasonable steps
necessary to prevent discrimination and a hostile program environment based on national origin,
including, but not limited to, failure to investigate Plaintiff-Intervenor's complaints regarding the
Policy, failure to rescind the Policy, and failure to remedy Plaintiff-Intervenor's unlawful

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discrimination.

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157. Instead, Defendants created their own personal Policy and participated in
maintaining a discriminatory environment. Defendants failed to effectively investigate, stop,
correct, or prevent the unlawful Policy and related conditions, even after Plaintiff-Intervenor
complained of such matters.

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158. As a direct, legal and proximate result of Defendants' failure to take all reasonable
steps necessary to prevent discrimination and harassment from occurring, Plaintiff Intervener has
sustained economic and emotional injuries, resulting in damages in an amount to be proven at
trial.

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159. Defendants' unlawful actions were intentional, willful, malicious, and/or done with
reckless disregard to Plaintiff-Intervenor's right to be free from discrimination based on national
origin.

160. Plaintiff-Intervenor is entitled to her reasonable attorneys' fees and costs of suit.

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Eighth CLAIM FOR RELIEF

[Immediate Payment and Waiting Time Penalties Pursuant to Michigan Constitution]

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191. Plaintiff-Intervenor incorporates by reference as if fully set forth herein the
allegations contained in paragraphs 1-190, above.

Ninth CLAIM FOR RELIEF
[Negligent Supervision]

273 205. Plaintiff-Intervenor incorporates by reference as if fully set forth herein the
274 allegations contained in paragraphs 1 through 204, above.

275 206. Defendants had authority to supervise their employees.

276 207. Plaintiff-Intervenor is informed and believes and thereon alleges that Defendants
277 knew or reasonably should have known that their failure adequately to supervise their employees
278 created the risk of the commission, by those employees, of the wrongful conduct alleged herein,
279 but that Defendants failed to take appropriate corrective action.
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283 208. Plaintiff-Intervenor is informed and believes and thereon alleges that
282 Defendants' failure to take appropriate corrective action resulted in the commission of the wrongful conduct
283 alleged herein, and caused Plaintiff-Intervenor to suffer injury, damage, loss or harm.
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285 209. As a direct, legal and proximate result of Defendants' negligence,
286 Plaintiff-Intervenor has sustained economic and emotional injuries, resulting in damages in an
287 amount to be proven at trial.

288 210. Plaintiff-Intervenor is entitled to her reasonable attorneys' fees and costs of suit.

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DECLARATORY RELIEF ALLEGATIONS

296 211. A present and actual controversy exists between Plaintiff-Intervenor and
297 Defendants concerning their rights and respective duties. Plaintiff-Intervenor contends that

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301 Defendants violated his rights under Article II, Michigan common law. Plaintiff-Intervenor is
302 informed and believes and thereon alleges that the Defendants deny these allegations. Declaratory
303 relief is therefore necessary and appropriate.
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305 212. Plaintiff-Intervenor seeks a judicial declaration of the respective rights and duties
306 of the parties.

307 **INJUNCTIVE RELIEF ALLEGATIONS**

308 213. No plain, adequate, or complete remedy at law is available to Plaintiff-Intervenor
309 to
310 redress the wrongs alleged herein.

311 214. If this Court does not grant the injunctive relief sought herein, Plaintiff-Intervenor
312 will be irreparably harmed.

313 **PRAYER FOR RELIEF**

314 WHEREFORE, Plaintiff-Intervenor prays for relief as follows:

315 1. For a declaration that Defendants' actions, policies, and practices as alleged
316 herein are unlawful;

317 2. For reinstatement;

318 3. For penalties and all other compensation denied or lost to Plaintiff
319 Intervenor by reason of Defendants' unlawful actions, in an amount to be proven at trial;

320 4. For compensatory damages for Plaintiff-Intervenor's emotional pain and
suffering, in an amount to be proven at trial;

321 5. For punitive damages if an amount to be determined at trial;

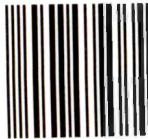
6. For liquidated damages;

7. For interest on lost wages, compensation, and damages, including pre- and
post-judgment interest and an upward adjustment for inflation;

Hopewell Gladney
424 S. Michigan Ave
South Bend IN 46601



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